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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

In the Matter of )  
 ) CC Docket No. 96-45  
Report to Congress on Universal Service ) (Report to Congress)  
Under the Telecommunications Act of 1996 )

**COMMENTS OF THE EDUCATION PARTIES**

The American Council on Education<sup>1/</sup>, American Association of Community Colleges<sup>2/</sup>, the Association of American Universities<sup>3/</sup>, and the Association of College and University Telecommunications Administrators<sup>4/</sup> (collectively, the "Education Parties"), hereby submit their comments in response to the Commission's Public Notice in the above-referenced matter.<sup>5/</sup>

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<sup>1/</sup> The American Council on Education is the nation's umbrella higher education association, representing approximately 1,800 accredited, degree-granting colleges and universities from all sectors of higher education and other education and education-related organizations. Many of the ACE institutions are ITFS and/or public broadcast licensees.

<sup>2/</sup> The American Association of Community Colleges is a national organization representing 1,064 presidents of the nation's regionally accredited, associate-degree granting colleges. Many of the member colleges of the association are ITFS, public TV and/or public radio licensees.

<sup>3/</sup> The Association of American Universities consists of 60 U. S. and two Canadian research universities. Approximately half of the members are public institutions.

<sup>4/</sup> The Association of College and University Telecommunications Administrators is the professional association representing managers of voice, video, and data telecommunications on college and university campuses. ACUTA has over 800 college and university members, and 150 corporate members.

<sup>5/</sup> Public Notice, "Common Carrier Bureau Seeks Comment for Report to Congress on Universal Service Under the Telecommunications Act of 1996," CC Docket No. 96-45, DA 98-2, rel. Jan. 5, 1998 (the "Public Notice"). In a separate order, the time for filing comments in response to the Public Notice was extended to January 26, 1998. Federal-State Joint Board on Universal Service, *Order*, CC Docket No. 96-45, DA 98-63, rel. Jan. 14, 1998.

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List A B C D E

## **I. Introduction**

The Public Notice seeks comment on five questions that must be addressed in a report to Congress on universal service matters, pursuant to direction in recent appropriations legislation. These comments focus on the third of the five questions, which relates to what entities are required to contribute to universal service under Section 254(d) of the Communications Act.

As described below, the Education Parties are concerned that long distance carriers may be attempting to unfairly shift the burdens of the Commission's universal service rules to end users while, at the same time, reaping the benefits of reduced access charges under the access reform order for themselves. The result of these activities is to upset the delicate balance the Commission struck when it adopted the *Universal Service Order* and the *Access Reform Order* in May of last year and to violate the intent of Section 254(d). The Commission should address this issue in its report to Congress and, equally important, should adopt measures to prevent long distance carriers from engaging in such practices.

## **II. Argument**

The *Universal Service Order* adopted and modified a series of federal subsidies for a variety of eligible services and customers. These subsidies are funded by carrier contributions that are assessed, depending on the specific program, on interstate and international revenues or on all of a carrier's revenues. For the first quarter of this year,

those assessments amount to 0.72 percent of total revenues and an additional 3.19 percent of interstate and international revenues.<sup>6/</sup>

Simultaneously with the *Universal Service Order*, the Commission also adopted its *Access Reform Order*. The *Access Reform Order* took specific steps to reduce the access charges paid by long distance carriers, including increasing the ceilings on the Subscriber Line Charge (the “SLC”) for both business and residential customers.<sup>7/</sup> By shifting access cost recovery more towards flat rated charges, including the SLC and the new Presubscribed Interexchange Carrier Charge (the “PICC”), the Commission reduced the costs recovered through other access rate elements and reduced the percentage of total access costs recovered from long distance carriers.

The net result of these orders was to increase some costs of providing long distance service while simultaneously decreasing other costs. In the long run, as traffic increases, the long distance carriers should expect the reductions in average per minute access costs to exceed significantly the increases resulting from the PICC and the universal service contribution requirement. These orders also were intended to reduce the existing implicit subsidies flows from long distance carriers to local exchange carriers that result from access charges that exceed the actual costs of providing access service and to comply with the

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<sup>6/</sup> See Public Notice, “First Quarter 1998 Universal Service Contribution Factors Revised and Approved,” CC Docket No. 96-45, DA 97-2623, rel. Dec. 16, 1997. Applying these contribution factors yields a net contribution requirement of 0.72 percent for intrastate services and 3.91 percent for interstate services.

<sup>7/</sup> Under the rules adopted in the *Access Reform Order*, SLCs for second and other additional lines used by residential customers increased from \$3.50 to \$5.00 and for all lines used by business customers increased from \$6.00 to \$9.00 on January 1.

requirement of Section 254(d) that “[e]very telecommunications carrier that provides interstate service shall contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service.”<sup>8/</sup>

The Education Parties have become aware, however, that some long distance carriers, including AT&T and MCI, are attempting to shift all of the increased costs resulting from the *Universal Service Order* and the *Access Reform Order* to business users, including colleges and universities, while retaining the benefits of the reductions in other access charge elements for themselves. Several member institutions have reported that their long distance carriers have notified them that both universal service contributions and PICCs will be added to existing charges for long distance service.<sup>9/</sup> The universal service contributions will not be assessed at the rates that the Commission has announced for the first quarter of the year (that is, 0.72 percent for intrastate services and a total of 3.91 percent for interstate and international services), but rather will range from 4.4 to 4.9 percent of the total international, interstate and intrastate long distance bill. The long distance carriers also have announced their intention to assess universal service charges on telephone lines assigned to students living in on-campus residences, even though those same carriers have pledged not to pass through their universal service contributions to residential customers and even though those

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<sup>8/</sup> 47 U.S.C. § 254(d).

<sup>9/</sup> In some cases, the long distance carriers have stated that they plan to assess PICCs not only on activated lines, but on telephone numbers that have been reserved but not activated by the educational institution.

students are charged residential rates. The long distance carriers have not, however, offered any reduction in the underlying long distance charges to the affected institutions.

In other words, the long distance carriers appear to be shifting all of the costs of the *Universal Service Order* and the *Access Reform Order* onto their customers and retaining the benefits for themselves. In fact, based on the universal service surcharges that the long distance carriers have announced to the Education Parties' member institutions, it appears that they also intend to shift the costs of universal service contributions for residential service from residential to business customers. Thus, the Education Parties' member institutions and other non-residential users, not long distance carriers, are paying the universal service contributions assessed under Section 254(d). This is contrary to the requirements of Section 254(d).

The Education Parties do not believe that this result was the Commission's intent when it adopted these orders. While the Commission recognized that end users would pay some additional costs, notably through the increase in the SLC, it also expected that long distance carriers would flow reductions in access charges through to end user rates. At the same time, consumer benefits were supposed to accrue because lower long distance rates would encourage long distance calling, increase the efficiency of the network and further reduce the average cost of long distance calls. That does not appear to have occurred for the member institutions of the Education Parties. In fact, some educational institutions have

received long distance bills that, after the addition of PICCs and universal service assessments, are double their normal charges.<sup>10/</sup>

These concerns are particularly important in the case of the Education Parties' member institutions because those institutions have little or no margin for error in their budgets, especially in an era of fiscal restraint. There is no room in those budgets for an educational institution to pay tens or hundreds of thousands of dollars in increased long distance charges that were not subject to any negotiation process. Moreover, the failure of long distance companies to comply with the Commission's intent in adopting the *Universal Service Order* and the *Access Reform Order* has an impact far beyond the important, but technical question of whether the effects of those orders are consistent with Section 254(d). The ultimate impact of these charges will be on the communities served by member institutions, particularly on students, but also on hospitals, social service programs, community outreach and other aspects of each institution's mission. Thus, the Commission not only should address these issues in its report to Congress, but also should take steps to prevent the long distance carriers from unjustly enriching themselves by taking advantage of loopholes in the Commission's orders in these proceedings.

### **III. Conclusion**

For all these reasons, the Education Institutions respectfully request that the

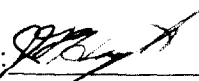
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<sup>10/</sup> This is particularly the case for institutions that have relatively little long distance calling. In some cases, the new charges appear to violate existing contracts but the long distance carriers have insisted that the charges must be paid.

Commission address these issues in its report to Congress on universal service matters.

Respectfully submitted,

American Council on Education  
American Association of Community Colleges  
Association of American Universities  
Association of College and University  
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January 26, 1998

### **CERTIFICATE OF SERVICE**

I, Vicki Lynne Lyttle, a secretary at Dow, Lohnes & Albertson, PLLC, do hereby certify that on this 26th day of January, 1998, a copy of the foregoing "Comments of the Education Parties" was sent by hand delivery to the following:

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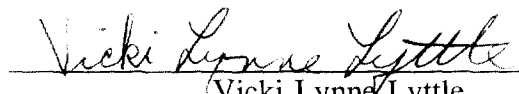
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